

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

VLADIMIR LIPKIN and ANZHELA
DEMKIV, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

HARLEY-DAVIDSON MOTOR COMPANY
GROUP, LLC,

Defendant.

Case No.: 2023-cv-00413

JOINT MOTION TO STAY PROCEEDINGS IN LIGHT OF JPML ACTIVITY

The Parties, Plaintiffs Vladimir Lipkin and Anzhela Demkiv and Defendant Harley-Davidson Motor Company Group, LLC, respectfully request that this Court stay these proceedings, including Defendant's response to Plaintiffs' complaint ("Complaint") and the Parties' filing of a Joint Status Report or appearance at an initial status hearing, in deference to activity before the United States Judicial Panel on Multidistrict Litigation ("JPML").

In support of this motion, the Parties state as follows:

1. Plaintiffs filed a Complaint in this action on January 23, 2023. DE 1.
2. On January 24, 2023, Plaintiffs provided a copy of the Complaint to Defendant, and Defendant waives service of the summons in satisfaction of Fed. R. Civ. P. 4(d) as of February 6, 2023.
3. Defendant's current deadline to respond to the Complaint is April 4, 2023. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). The Court has ordered an initial status report due by April 10, 2023. *See* DE 3.

4. A Motion for Transfer under 28 U.S.C. § 1407 was filed with the United States Judicial Panel (JPML) on behalf of plaintiffs in related cases (the “Transfer Motion”) in *In Re: Harley-Davidson Aftermarket Parts Marketing, Sales Practices and Antitrust Litig.*, MDL No. 3064, (“JPML Docket”) on December 1, 2022. *See* JPML Docket, DE 1.

5. On January 24, 2023, Defendant’s Counsel filed a Notice of Potential Related Action in the JPML Docket for this action. *See* JPML Docket, DE 34.

6. The Motion was scheduled to be heard before the JPML at the January 26, 2023 Panel Hearing Session, but all parties in the JPML Docket waived oral argument because no parties opposed transfer and consolidation to the Northern District of Illinois. *See* JPML Docket, DE 20, 24-27, and 30-33.

7. The Parties anticipate that this action may be subject to a transfer order if the JPML establishes a multidistrict litigation docket (“MDL”). Plaintiffs would not oppose such a transfer. Accordingly, the JPML proceedings may directly impact this case.

8. Courts routinely stay proceedings pending a determination of a motion to transfer and consolidate pursuant to 28 U.S.C. § 1407. *See, e.g., Walter v. Monsanto Co.*, 2019 WL 13223281, at *2 (N.D. Ill. Oct. 30, 2019) (granting motion to stay in the interest of preserving judicial resources and avoiding duplicative efforts). “In deciding whether to enter a stay, courts in this district generally consider whether a stay will (1) “reduce the burden of litigation on the parties and the court,” (2) “simplify the issues in question and streamline the trial,” and (3) “unduly prejudice or tactically disadvantage the non-moving party,” *Pfizer Inc. v. Apotex Inc.*, 640 F. Supp. 2d 1006, 1007 (N.D. Ill. 2009).

9. Good cause exists to support entry of a stay pending resolution of the JPML proceedings given its potential effect on this case. The Parties will not suffer prejudice from a stay

given that this case is still in its early stages—no responsive pleadings have been filed, no discovery has occurred, and the Court has not yet set a schedule for this action beyond the due date for an initial status report. Absent a stay, any litigation by the Parties or rulings by the Court may be mooted, duplicative or inconsistent with the other actions. Thus, a stay would reduce the burden of litigation on the Parties and this Court, simplify this litigation, and promote the interests of judicial economy.

10. Counsel for Plaintiffs and Defendant agree that nothing in or regarding this Joint Motion shall constitute a waiver of: (a) any jurisdictional or other defenses that may be available under Rule 12 of the Federal Rules of Civil Procedure; (b) any affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure; or (c) any other statutory or common law defenses that may be available to Defendant in this and the other related actions. Defendant expressly reserves its rights to raise any such defenses (or any other defense) in response to either the current Complaint or any amended complaint that may be filed relating to this action.

11. Following the JPML's resolution of the JPML Motions, or the withdrawal of all pending JPML Motions, counsel for Plaintiffs and Defendant shall meet and confer in good faith to negotiate a schedule for: (1) Defendant to answer or otherwise respond to the Complaint and, if appropriate, a briefing schedule with respect to any motions to be filed pursuant to Fed. R. Civ. P. 12; and (2) the Parties to submit a Joint Status Report. If the Parties are unable to agree to such a schedule, then they shall submit a joint brief to this Court, or if the Transfer Motion is granted, to the transferee court, regarding such schedule.

WHEREFORE, Plaintiffs Vladimir Lipkin and Anzhela Demkiv and Defendant Harley-Davidson Motor Company Group, LLC respectfully request that this Court enter an order staying these proceedings in deference to activity before the JPML.

Dated: February 6, 2023

Respectfully submitted,

VLADIMIR LIPKIN and ANZHELA DEMKIV

HARLEY-DAVIDSON MOTOR COMPANY GROUP, LLC

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CERTIFICATE OF SERVICE / NOTICE OF ELECTRONIC FILING

The undersigned, a non-attorney, hereby certifies, that on this **6th day of February, 2023**, she electronically filed the foregoing **Joint Motion to Stay Proceedings in Light of JPML Activity** with the Clerk of the United States District Court For the Northern District of Illinois, using the ECF filing system, which sent electronic notification of this filing to any registered attorneys of record.

/s/Carolyn Surovic

Carolyn Surovic

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